

ASSEMBLY BILL

No. 470

**Introduced by Assembly Member Chu
(Coauthor: Assembly Member Waldron)**

February 23, 2015

An act to amend Section 15660 of the Welfare and Institutions Code, relating to social services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 470, as introduced, Chu. In-home supportive services: fingerprinting.

Existing law requires the Department of Justice to conduct background checks, as requested, by employers of in-home supportive services providers. Existing law requires the department to charge a fee to the employer to cover the costs of administering the background check program.

This bill would require the above fees to be placed in the IHSS Fingerprint Account, which would be established by the bill. The bill would continuously appropriate those funds to the Department of Justice for use to offset costs incurred in administering the background checks and for maintenance and improvement to the systems from which the information is obtained.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 15660 of the Welfare and Institutions
- 2 Code is amended to read:

1 15660. (a) The Department of Justice shall secure ~~any the~~
2 criminal record of a person to determine whether the person has
3 ever been convicted of a violation or attempted violation of Section
4 243.4 of the Penal Code, a sex offense against a minor, or of ~~any~~
5 a felony that requires registration pursuant to Section 290 of the
6 Penal Code, or whether the person has been convicted or
7 incarcerated within the last 10 years as the result of committing a
8 violation or attempted violation of Section 273a or 273d, or
9 subdivision (a) or (b) of Section 368, of the Penal Code, or as the
10 result of committing a theft, robbery, burglary, or ~~any a~~ felony,
11 and shall provide a subsequent arrest notification pursuant to
12 Section 11105.2 of the Penal Code, if both of the following
13 conditions are met:

14 (1) ~~An employer of the person~~ *The person's employer* requests
15 the determination and submits *the person's* fingerprints ~~of the~~
16 ~~person~~ to the Department of Justice. For purposes of this paragraph,
17 "employer" includes, but is not limited to, an in-home supportive
18 services recipient, as defined by Section 12302.2, an aged or
19 disabled adult who is ineligible for benefits under Chapter 3
20 (commencing with Section 12000), who receives care by a person
21 as described in paragraph (2), ~~any a~~ recipient of personal care
22 services under the Medi-Cal program pursuant to Sections
23 14132.95 to 14132.97, inclusive, and ~~any a~~ public authority or
24 nonprofit consortium, as described in subdivision (a) of Section
25 12301.6.

26 (2) The person is unlicensed and provides nonmedical domestic
27 or personal care to an aged or disabled adult in the adult's own
28 home.

29 (b) (1) If it is found that the person has ever been convicted of
30 a violation or attempted violation of Section 243.4 of the Penal
31 Code, a sex offense against a minor, or of ~~any a~~ felony ~~which that~~
32 requires registration pursuant to Section 290 of the Penal Code,
33 or that the person has been convicted or incarcerated within the
34 last 10 years as the result of committing a violation or attempted
35 violation of Section 273a or 273d, or subdivision (a) or (b) of
36 Section 368, of the Penal Code, or as the result of committing a
37 theft, robbery, burglary, or ~~any a~~ felony, the Department of Justice
38 shall notify the employer of that fact. If no criminal record
39 information has been recorded, the Department of Justice shall
40 provide the employer with a statement of that fact.

1 (2) ~~Any~~*An* employer may deny employment to~~any~~ *a* person
2 who is the subject of a report under paragraph (1) when the report
3 indicates that the person has committed any of the crimes identified
4 in paragraph (1).

5 (3) Nothing in this section shall be construed to require~~any~~ *an*
6 employer to hire~~any~~ *a* person who is the subject of a report under
7 paragraph (1) when the report indicates that the person has not
8 committed any of the crimes indicated in paragraph (1).

9 (c) (1) Fingerprints shall be on a card provided by the
10 Department of Justice for the purpose of obtaining a set of
11 fingerprints. The employer shall submit the fingerprints to the
12 Department of Justice. Within 30 calendar days of the receipt of
13 the fingerprints, the Department of Justice shall notify the employer
14 of the criminal record information, as provided in this subdivision.
15 If no criminal record information has been recorded, the
16 Department of Justice shall provide the employer with a statement
17 of that fact as soon as possible, but not later than 30 calendar days
18 from the date of receipt of the fingerprints. If new fingerprints are
19 required for processing, the Department of Justice shall, as soon
20 as possible, but not later than 30 calendar days from the date of
21 receipt of the fingerprints, notify the employer that the fingerprints
22 were illegible.

23 (2) Fingerprints may be taken by any local law enforcement
24 officer or agency for purposes of paragraph (1).

25 (3) Counties shall notify any recipient of, or applicant for,
26 in-home supportive services or personal care services under the
27 Medi-Cal program, upon his or her application for in-home
28 supportive services or personal care ~~services or services~~, during
29 his or her annual redetermination, or upon the recipient's changing
30 providers, that a criminal record check is available, and that the
31 check can be performed by the Department of Justice.

32 (d) (1) The Department of Justice shall charge a fee to the
33 employer to cover the costs of administering this section. *All*
34 *moneys assessed pursuant to this subdivision shall be deposited*
35 *into the IHSS Fingerprint Account, which is hereby created in the*
36 *State Treasury. Notwithstanding Section 13340 of the Government*
37 *Code, funds in the IHSS Fingerprint Account shall be continuously*
38 *appropriated to the Department of Justice for use to offset costs*
39 *incurred pursuant to this section, subdivision (e) of Section*
40 *12301.6, subdivision (a) of Section 12305.86, and for maintenance*

1 *and improvement to the systems from which the information is*
2 *obtained.*

3 (2) (A) If the employer is ~~an~~ *a recipient of* in-home supportive
4 ~~services recipient, as defined in Section 123202.2, services,~~ a
5 recipient of personal care services under the Medi-Cal program
6 pursuant to Sections 14132.95 to 14132.97, inclusive, or ~~any~~ *a*
7 public authority or nonprofit consortium as described in subdivision
8 (a) of Section 12301.6, *payment of* the fee shall be shared by the
9 county and the state in the same ratio as described in Section
10 12306.

11 (B) (i) Notwithstanding any other ~~provision of~~ law, and except
12 as provided in clause (ii), the department shall, no later than
13 January 1, 2009, implement subparagraph (A) through an all-county
14 letter from the director.

15 (ii) No later than July 1, 2009, the department shall adopt
16 regulations to implement the provisions listed in subparagraph
17 (A).

18 (e) It is the intent of the Legislature that the Department of
19 Justice charge a fee to cover its cost in providing services in
20 accordance with this section to comply with the 30-calendar-day
21 requirement for provision to the department of the criminal record
22 information, as contained in subdivision (c).